

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2001-312-C - ORDER NO. 2001-1040

NOVEMBER 6, 2001

IN RE:	Application of Path Enterprises, Inc. d/b/a)	ORDER GRANTING
	Econocall for a Certificate of Public)	CERTIFICATE
	Convenience and Necessity to Provide)	
	Interexchange and Local Exchange)	
	Telecommunications Services and for)	
	Alternative and Flexible Regulation.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of Path Enterprises, Inc. d/b/a Econocall ("Econocall" or the "Company") for authority to provide local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2000), and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform

interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC") on September 11, 2001.

On September 25, 2001, counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Econocall provided written notice of its intent prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Econocall agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 11, 2001, at 10:30 a.m. in the Commission's Hearing Room. The Honorable William Saunders, Chairman, presided. Econocall was represented by T. Lowndes Pope, Esquire. Suresh M. Tanna, Chief Executive Officer for Econocall, appeared and testified on behalf of the Company.

Jocelyn G. Boyd, Staff Counsel, represented the Commission Staff. Vivian Brown Dowdy, Auditor, and Eddie Coates, Rates Analyst, testified for the Commission Staff.

Econocall seeks a certificate of public convenience and necessity to provide resold and facilities-based local exchange telecommunications and interexchange services throughout the State of South Carolina. Econocall was incorporated in the State of New Jersey on October 10, 1995. Tanna is responsible for the day to day operations, long range economic forecasting and strategic planning and direction of the Company. Tanna is a licensed professional engineer who has twenty-six years experience in engineering and managerial positions. He has gained extensive management experience while serving as CEO for Econocall, Inc.

Econocall does not plan to deploy a switch in South Carolina to provide telecommunications services. The record reveals Econocall will provide prepaid, one plus and zero plus interexchange telecommunications services for the direct transmission and reception of voice between locations throughout the State of South Carolina. The record also reveals Econocall will interface with the ILEC for line maintenance because it will not have its own outside plant facilities. Upon receiving certification and providing telecommunications services in South Carolina, Econocall does not immediately plan to sell prepaid calling cards; however, the Company is aware of the Commission's policy that a \$5,000 surety bond or certificates of deposit must be posted with the Commission upon the provisioning of prepaid calling cards in South Carolina. As Econocall's telecommunications traffic will be routed entirely over the

networks of its underlying carriers, the Company will be relying on its facilities-based underlying carriers for the operation and maintenance of its networks.

Regarding the Company's managerial personnel, Pratima S. Tanna is the Vice President of Path Enterprises, Inc. She is responsible for internal operations and accounting for the Company. Ms. Tanna has a comprehensive background in sales, bookkeeping, and office management. Pathik S. Tanna is the Company's Technical Operations Manager. Pathik Tanna has eight years experience in the telecommunications industry and he is responsible for the day-to-day management of all technical operations. Additionally, Pathik Tanna is responsible for interfacing with LECs and IXC's, T-1 applications, and network designs.

Regarding the Company's financial ability to offer telecommunications services in South Carolina, Tanna testified that Econocall has sufficient financial capacity to provide telecommunications services in South Carolina and the financial resources to meet its lease and ownership obligations. According to the record, Econocall will use a variety of techniques to obtain customers such as direct mailing or more wide ranging coverage in newspapers and magazines. Econocall will bill its customers directly through the Company itself or other billing companies. Econocall's customers can report complaints regarding telecommunications service and billing errors via the billing company's toll free customer service number. The record reveals this number will appear on the customers' bills and customers may contact this number for information concerning their accounts.

Dowdy reviewed the Company's financial information filed with the Commission. These financial statement were for the period ending June 30, 2001. Its balance sheet indicated cash made up 15.42% of total assets. The current ratio for the period ending June 30, 2001, is 3.20, which indicates there were enough current assets to meet all current liabilities as of the balance sheet date. Additionally, retained earnings were zero as of June 30, 2001. In sum, Dowdy testified the financial statements filed with Econocall's application indicate Econocall is liquid. In order for the Company to operate, it needs a continued source of working capital, such as profits, long-term debt or additional paid-in-capital by the owners.

Coates presented the findings of the Utilities Department with respect to Staff's review of the Application of Econocall. Coates also reviewed the Company's tariff and his testimony included recommended modifications to the Company's tariff so the tariff complies with the Commission's rules, regulations, and Orders. Tanna agreed on behalf of the Company to modify the Company's tariff in accordance with Coates' recommendations.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Econocall is organized as a corporation under the laws of the State of New Jersey and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Econocall is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. Econocall has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that Econocall's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2000).

5. The Commission finds that Econocall will support universally available telephone service at affordable rates.

6. The Commission finds that Econocall will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by Econocall "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2000).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Econocall to provide competitive intrastate resold and facilities-based non-rural local exchange service in South Carolina. The terms of the Stipulation between Econocall and SCTC are approved, and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation. In addition, Econocall is granted authority to provide intrastate interLATA interexchange service and to originate

and terminate toll traffic within the same LATA, as set forth herein, on a facilities-basis and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. Econocall shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Econocall's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for Econocall's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, Econocall's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. The Commission adopts a rate design for the long distance services of Econocall which are consistent with the principles and procedures established for

alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of Econocall including consumer card services, and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Econocall also.

4. With regard to the interexchange residential service offerings of Econocall, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. Econocall shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. Econocall shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes.

However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

6. If it has not already done so by the date of issuance of this Order, Econocall shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

7. Econocall is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. Econocall shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Econocall changes underlying carriers, it shall notify the Commission in writing.

10. With regard to the origination and termination of toll calls within the same LATA, Econocall shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

11. Econocall shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations for Interexchange Companies and AOS".

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Econocall shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the “Authorized Utility Representative Information” form which can be located at the Commission’s website at www.psc.state.sc.us/forms to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

13. Econocall shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. The Company also requests a waiver 26 S.C. Code Ann. Regs. 103-631 (Supp. 2000). Econocall plans to enter into an agreement with the directory publisher of the local exchange carrier to include the names of its customers in local exchange carrier’s directories. We grant the Company’s request for a waiver of 26 S.C. Code Ann. Regs. 103-631 (Supp. 2000). We also grant the Company’s request to maintain its books in accordance with Generally Accepted Accounting Principles. However, the Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In

recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Econocall to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Econocall shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

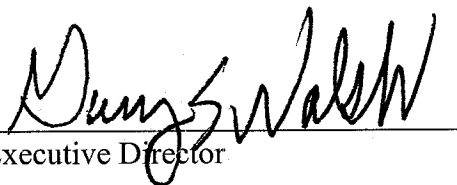
16. Econocall shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Econocall shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The “Annual Report for Competitive Local Exchange Carriers” form can be located at the Commission’s website at www.psc.state.sc.us/forms. This form shall be utilized by the Company to file annual financial information with the Commission.

17. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2001-NUMBER-C

Re: Application of Path Enterprises, Inc. d/b/a)
Econocall for a Certificate of Public)
Convenience and Necessity to Provide)
Local Exchange Telecommunications Services)
in the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Path Enterprises, Inc. d/b/a Econocall ("Path Enterprises") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Path Enterprises's Application. SCTC and Path Enterprises stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Path Enterprises, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Path Enterprises stipulates and agrees that any Certificate which may be granted will authorize Path Enterprises to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Path Enterprises stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Path Enterprises stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless

and until Path Enterprises provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Path Enterprises acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Path Enterprises stipulates and agrees that, if Path Enterprises gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Path Enterprises will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Path Enterprises acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

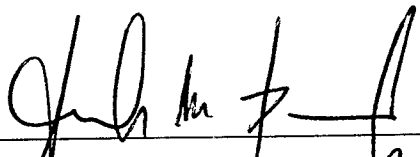
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Path Enterprises, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Path Enterprises agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

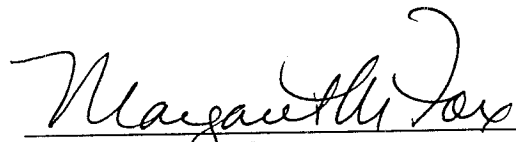
9. Path Enterprises hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 17 day of SEPT,
2001.

Path Enterprises, Inc. d/b/a Econocall:


S. M. TANAKA
ECONOCALL INC

South Carolina Telephone Coalition:


M. John Bowen, Jr.
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Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

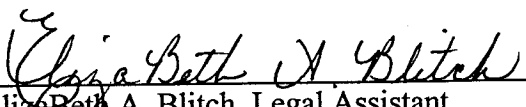
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in the State of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blitch, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Mr. Suresh M. Tanna
Chief Executive Officer
Path Enterprises, Inc.
177 Path Parkside Drive
Union, New Jersey 07083


ElizaBeth A. Blitch, Legal Assistant
McNAIR LAW FIRM, P.A.
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(803) 799-9800

25 *EAB*
September 11, 2001

Columbia, South Carolina